

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

CRP.(PD).No.4724 of 2017

and

C.M.P. No.22249 of 2017

A.Jamal Mohammed

..Petitioner

Vs.

1.A.Naninarkani

2.A.Syed Abuthakir

..Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 08.11.2017 in I.A.No.4347 of 2016 in O.S.No.1915 of 2017 on the file of the III Assistant City Civil Court, Chennai.

For petitioner : Mr.OM Sai Ram

For respondents : Mr.P.Mohamed Ansare

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ORDER

The Civil Revision Petition is filed to set aside the fair and decretal order dated 08.11.2017 in I.A.No.4347 of 2016 in O.S.No.1915 of 2017 on the file of the III Assistant City Civil Court, Chennai.

2. The learned counsel for the petitioner would submit that, the respondents have filed the suit in O.S.No.1915 of 2011 for permanent injunction against the petitioner. Subsequently, the revision petitioner has filed an I.A.No.4347 of 2016 before the Court below for filing additional written statement in the aforesaid suit. According to the petitioner, while marking the documents on the side of plaintiff, the revision petitioner came to know that necessary pleas were not raised in the written statement filed by him. Therefore, it is necessary to file an application for receiving additional written statement in the aforesaid suit. The Court below has erroneously dismissed the said application. Therefore, the revision petitioner has filed the Civil Revision Petition before this Court.

3. According to the learned counsel for the respondent, the petitioner has filed the present application without any reasons stated in the affidavit. The trial has come to conclusion since all the witnesses were cross-examined in detail. At this stage, filing the present application without any reason for filing written statement would cause prejudice to the respondent and further the aforesaid suit was filed in the year of 2011 for permanent injunction. Therefore, the said application is only to drag on the proceedings and the Court below has rightly rejected the application.

4. Heard the learned counsel for the petitioner as well as the learned counsel for the respondents and perused the material available on record.

5. Perusal of the records would show that the revision petitioner/defendant entered appearance and filed the written statement on 27.04.2012. PW1's Chief examination was recorded on 08.04.2013 and Exhibits A1 to A8 were marked on 01.08.2013 through PW1. Subsequently, PW2 was also examined. At the stage of the defendant side evidence, the revision petitioner has filed this application to receive additional written statement.

6. By considering the various decisions of this Court, the Court below has dismissed the said application by holding that the revision petitioner had raised mutually destructive pleas in the additional written statement and also the revision petitioner had come forward with this application after a lapse of time more than four years. Therefore, the Court below has rightly dismissed the said application.

7. After considering the affidavit filed in support of the petition, this Court found that there is no satisfactory explanation for filing the additional written statement, and the same was filed after concluding the plaintiff's

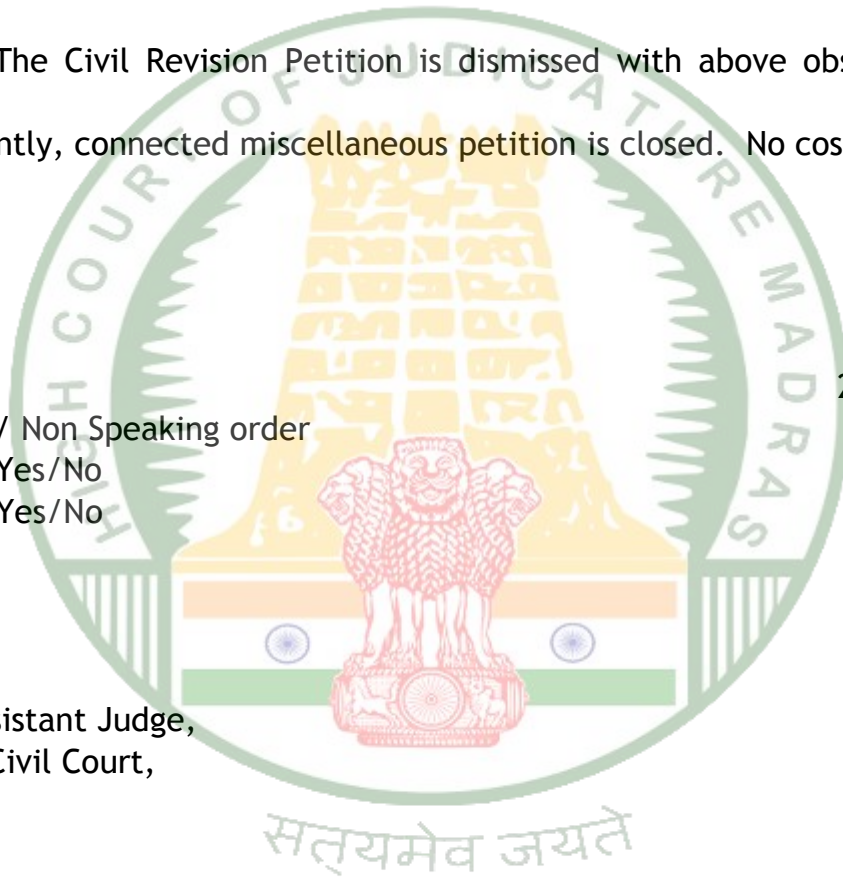
side evidence and further the revision petitioner has not satisfied the plea raised in the additional written statement. No prima facie case is made out to entertain the civil revision petition and hence the Civil Revision Petition is liable to be dismissed.

8. The Civil Revision Petition is dismissed with above observations. Consequently, connected miscellaneous petition is closed. No costs.

Speaking / Non Speaking order
Index :Yes/No
Internet :Yes/No
RKP

21.12.2017

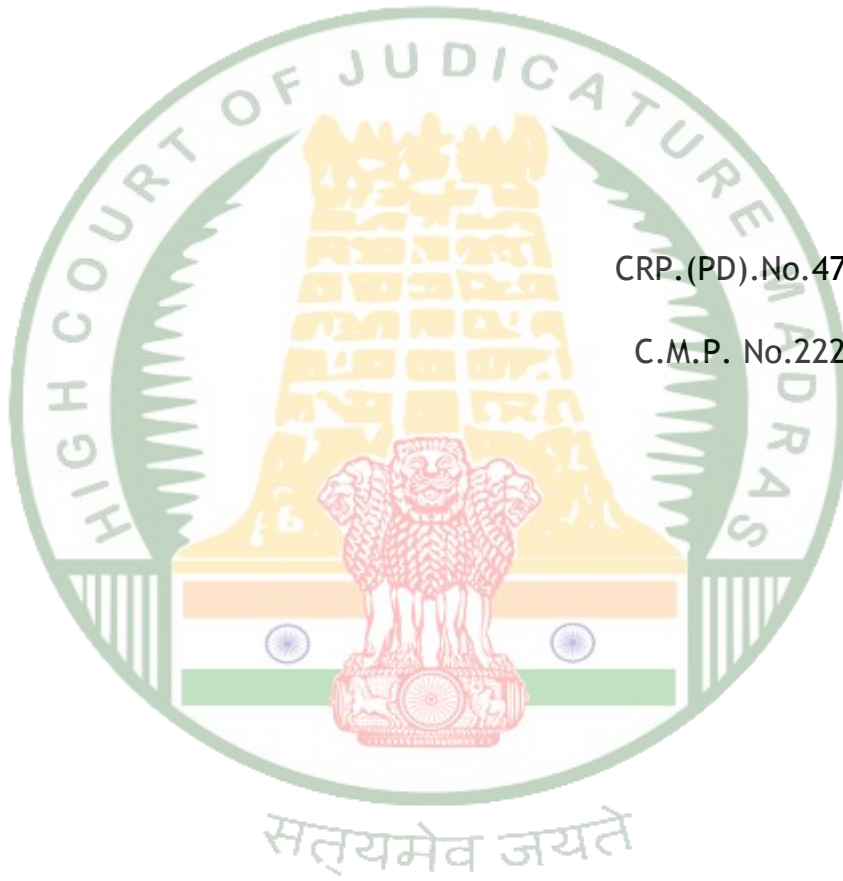
To
The III Assistant Judge,
The City Civil Court,
Chennai.



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D.KRISHNAKUMAR.J,

RKP



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